

# Notice of Allowability

Application No.

10/001,451

Examiner

Fenn C Mathew

Applicant(s)

TWEARDY ET AL.

Art Unit

3764

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 02/07/2005.
2. ☒ The allowed claim(s) is/are 14,17,18,26,31,32,34-47,49,50 and 52.
3. ☒ The drawings filed on 23 October 2001 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

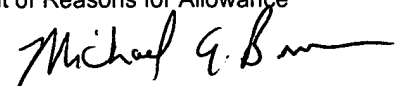
Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

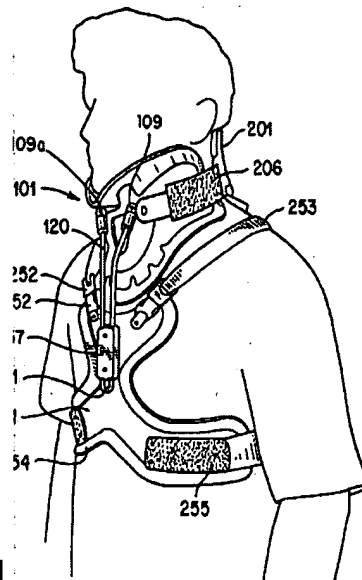


**MICHAEL A. BROWN  
PRIMARY EXAMINER**

## DETAILED ACTION

### *Allowable Subject Matter*

1. Claims 14, 17, 18, 26, 31-32, 34-47, 49-50, and 52 are allowed. The following is an examiner's statement of reasons for allowance: Prior art cervical devices are known

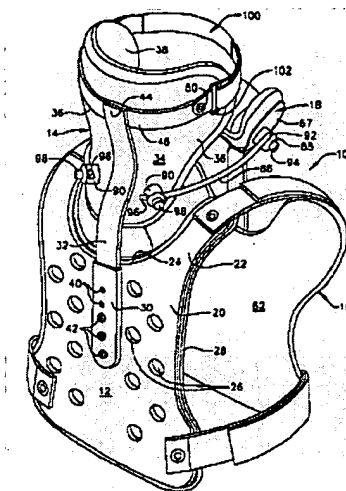


in the art. Garth et al. (U.S. 6,315,756) as pictured teaches a

cervical device including a cervical collar, having front and rear portions, wherein the rear portion comprises an occipital support, a vest comprising a front plate and back plate, a rear strut extending between the occipital support and the back plate wherein the distance can be adjusted. Garth fails to teach a latch and latch housing disposed on the rear portion wherein the latch housing comprises one or more receiving elements that engage the latch to adjust the relative distance between the cervical collar and vest, and further fails to teach that the rear strut may be adjusted both angularly and vertically. Garth also fails to teach the strut being detachably attached to the chin support of the cervical collar. (Applicant's provided evidence in the form of a model of the prior art during the interview conducted on February 17, 2004). Garth also fails to

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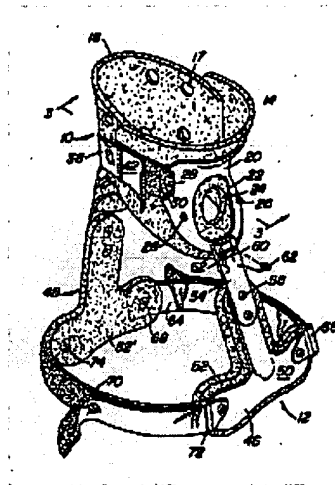
teach a rear strut including a strut lock comprising an eccentric lever for locking one end of the rear strut to a bracket affixed to the back plate, nor the latch housing and latch comprising corresponding serrated surfaces that move into and out of engagement upon rotation of the latch relative to the housing.



2. Lerman (U.S. 6,267,741) as pictured teaches a cervical device including a chin support, an occipital support, a chest plate having a front and rear portion, and struts attaching the front and rear chest plates to the chin support and occipital support respectively. Lerman fails to teach a cervical collar as generally defined in the art, and further fails to teach a latch and latch housing disposed on the rear portion wherein the latch housing comprises one or more receiving elements that engage the latch to adjust the relative distance between the cervical support and vest, and further fails to teach that the rear strut may be adjusted both angularly and vertically. Lerman also fails to teach the strut being detachably attached to the chin support of the cervical collar and a rear strut including a strut lock comprising an eccentric lever for locking one end of the rear strut to a bracket affixed to the back plate,

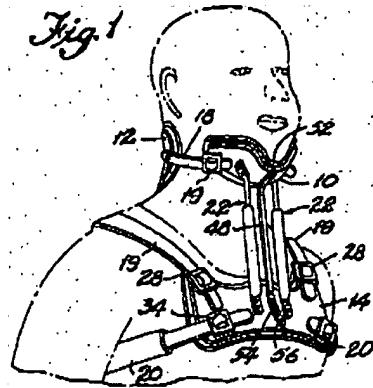
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nor the latch housing and latch comprising corresponding serrated surfaces that move into and out of engagement upon rotation of the latch relative to the housing.



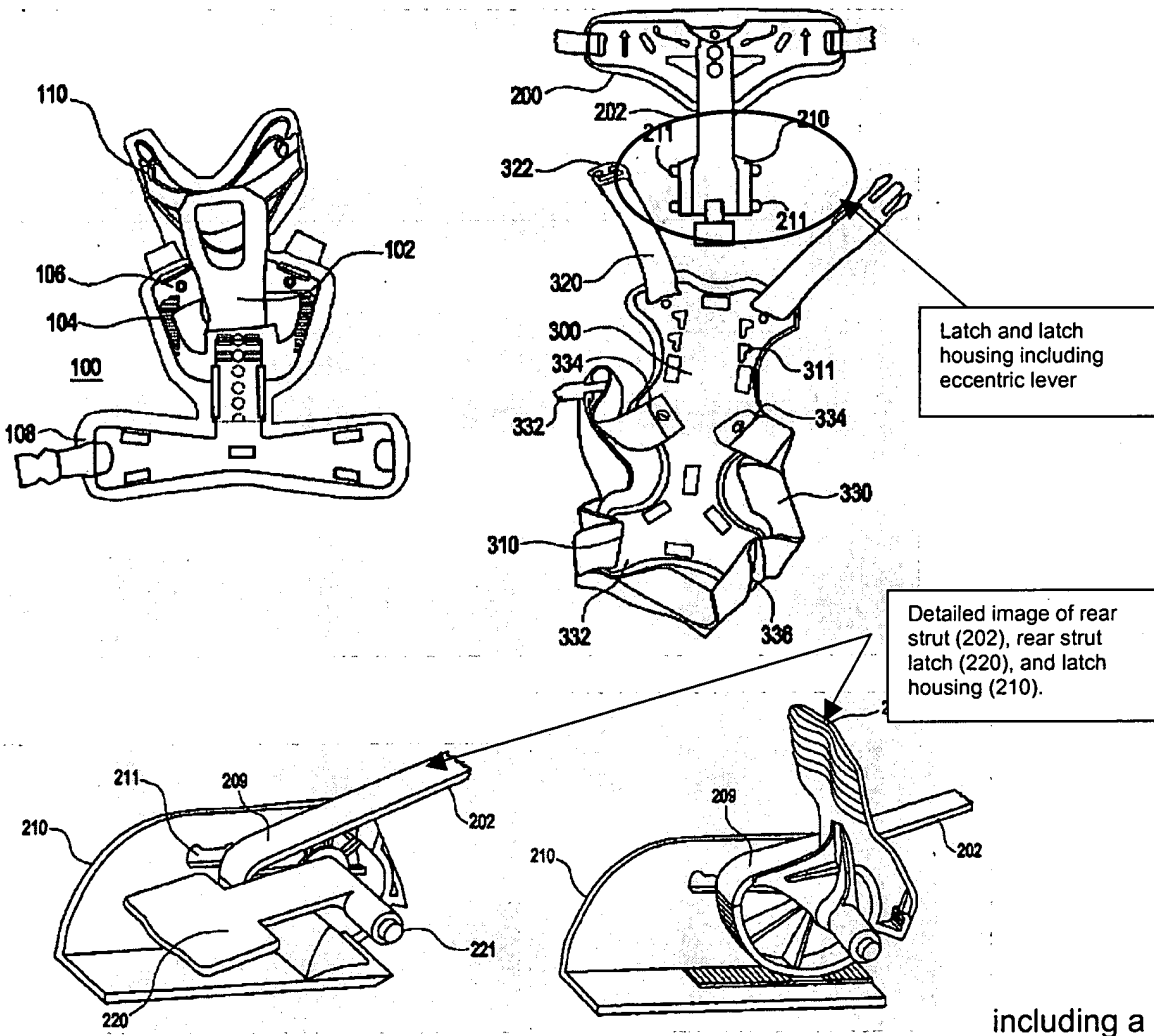
3. Calabrese (U.S. 4,677,969) as pictured teaches a cervical collar, front and rear struts fixedly connected to front and rear plates.

Calabrese fails to teach a latch and latch housing disposed on the rear portion wherein the latch housing comprises one or more receiving elements that engage the latch to adjust the relative distance between the cervical collar and vest, and further fails to teach that the rear strut may be adjusted both angularly and vertically. Calabrese also fails to teach the strut being detachably attached to the chin support of the cervical collar and a rear strut including a strut lock comprising an eccentric lever for locking one end of the rear strut to a bracket affixed to the back plate, nor the latch housing and latch comprising corresponding serrated surfaces that move into and out of engagement upon rotation of the latch relative to the housing.



4. Hale (U.S. 2,904,040) as pictured teaches a chin strut, an occipital support, a chest plate having a front and rear portion, and struts attaching the front and rear chest plates to the chin strut and occipital support respectively. Hale fails to teach a cervical collar as generally defined in the art, and further fails to teach a latch and latch housing disposed on the rear portion wherein the latch housing comprises one or more receiving elements that engage the latch to adjust the relative distance between the cervical collar and vest, and further fails to teach that the rear strut may be adjusted both angularly and vertically. Hale also fails to teach the strut being detachably attached to the chin support of the cervical support and a rear strut including a strut lock comprising an eccentric lever for locking one end of the rear strut to a bracket affixed to the back plate, nor the latch housing and latch comprising corresponding serrated surfaces that move into and out of engagement upon rotation of the latch relative to the housing.

5. The prior art of record fails to teach the present invention as seen below



including a cervical collar, a rear strut connecting the rear of the cervical collar to a rear chest plate, and a chin strut detachably connected with a front chest plate, wherein the strut can cause angular and vertical adjustment. The prior art also fails to teach the latch and latch housing as substantially disclosed including eccentric elements and corresponding serrated surfaces that move into and out of engagement upon rotation of the latch relative to the housing.

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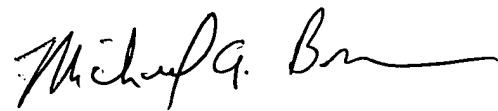
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fenn C Mathew whose telephone number is (571) 272-4978. The examiner can normally be reached on Monday - Friday 9:00am - 5:30pm.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

fcm  
fcm  
February 28, 2005



MICHAEL A. BROWN  
PRIMARY EXAMINER